



DIVISION

DEP & REF

Docket No.: 0445-0350PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takao KASAI

Application No.: 10/530,705

Confirmation No.: 7744

Filed: November 8, 2005

Art Unit: 3761

For: DISPOSABLE DIAPER

Examiner: J. F. Stephens

REQUEST FOR REFUND
(IMPROPER CHARGE OF DEPOSIT ACCOUNT)

MS 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I. REFUND REQUEST

This is a request for a refund with respect to the charge to Deposit Account 02-2448 shown on the statement for the month of May 2007 for the above-identified

☒ application ☐ patent

☒ A copy of the monthly statement in which the error referred to occurs, accompanies this request.

Application No.: 10/530,705

Docket No.: 0445-0350PUS1

II. FEES CHARGED FOR WHICH REFUND REQUESTED

AMOUNT OF
REFUND
REQUESTED

☒ Other: information disclosure statement fee \$180.00

TOTAL REFUND REQUESTED

\$180.00

III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

Applicant representative filed an Information Disclosure Statement on April 19, 2007 along with a Chinese Office Action and its translation which was issued on February 16, 2007. Applicant certified that the references cited in the Chinese Office Action and provided in the Information Disclosure Statement were first cited. A non-final Office Action was issued in the above-identified application no. 10/530,705, but since the applicant certified that the references were first cited, a fee in the amount of \$180.00 was not necessary. Therefore, applicant respectfully requests a refund in the amount of \$180.00 be issued. A copy of the Information Disclosure Statement and the Chinese Office Action with its translation are attached for the Examiner's review.

IV. MANNER OF REFUND

Please make refund by crediting Account No. 02-2448.

Application No.: 10/530,705

Docket No.: 0445-0350PUS1

We respectfully request that the attached copy of this letter be returned to us with an indication that the credit has been processed.

Dated: JUL 27 2007

Respectfully submitted,

By 

John W. Bailey

Registration No.: 32,881

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000


Attorney for Applicant

Attachment(s)



中华人民共和国国家知识产权局

16 FEB 2007

100032 北京市金融大街 27 号投资广场 A 座 10 层 永新专利商标代理有限公司 陈建全	发文日 COPY 专利局 2007.2.16 发文
申请号: 2003801018407 	
申请人: 花王株式会社	
发明名称: 一次性尿布	

第一次审查意见通知书

(进入国家阶段的 PCT 申请)

1. ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局专利局决定自行对上述发明专利申请进行审查。
2. ☒ 申请人要求以在:
JP 专利局的申请日 2002 年 10 月 22 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。
3. ☐ 申请人于 年 月 日和 年 月 日以及 年 月 日提交了修改文件。
经审查, 申请人于 年 月 日提交的 不符合专利法实施细则第 51 条第 1 款的规定。
☐
4. ☐ 审查是针对原始提交的国际申请的中文译文进行的。
☒ 审查是针对下述申请文件进行的:
☒ 说明书 第 1、2、4、5、7、8 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 页, 按照专利性国际初步报告附件的中文文本;
第 3、6 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。
☐
☒ 权利要求 第 1-5 项, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文文本;
第 项, 按照专利性国际初步报告附件的中文文本;
第 项, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 项, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 项, 按照 年 月 日所提交的修改文件。
☐
☒ 附图 第 1-4 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 页, 按照专利性国际初步报告附件的中文文本;
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。

21302
2008.7



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

申请号 2003801018407

☐

☒本通知书引用下述对比文件(其编号在今后的审查过程中继续沿用):

编号

文件号或名称

公开日期(或抵触申请的申请日)

1

CN1313745A

2001年9月19日

5. 审查的结论性意见:

☐关于说明书:

☐申请的内容属于专利法第5条规定的不予授予专利权的范围。

☐说明书不符合专利法第26条第3款的规定。

☐说明书不符合专利法第33条的规定。

☐说明书的撰写不符合专利法实施细则第18条的规定。

☒关于权利要求书:

☒权利要求 1、3 不具备专利法第22条第2款规定的新颖性。

☐权利要求 不具备专利法第22条第3款规定的创造性。

☐权利要求 不具备专利法第22条第4款规定的实用性。

☐权利要求 属于专利法第25条规定的不予授予专利权的范围。

☐权利要求 不符合专利法第26条第4款的规定。

☐权利要求 不符合专利法第31条第1款的规定。

☐权利要求 不符合专利法第33条的规定。

☐权利要求 不符合专利法实施细则第2条第1款的规定。

☐权利要求 不符合专利法实施细则第13条第1款的规定。

☐权利要求 不符合专利法实施细则第20条的规定。

☐权利要求 不符合专利法实施细则第21条的规定。

☐权利要求 不符合专利法实施细则第22条的规定。

☐权利要求 不符合专利法实施细则第23条的规定。

☐分案的申请不符合专利法实施细则第43条第1款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见,审查员认为:

☐申请人应按照通知书正文部分提出的要求,对申请文件进行修改。

☒申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由,并对通知书正文部分中指出的不符合规定之处进行修改,否则将不能授予专利权。

☐专利申请中没有可以被授予专利权的实质性内容,如果申请人没有陈述理由或者陈述理由不充分,其申请将被驳回。

7. 申请人应注意下述事项:

(1) 根据专利法第37条的规定,申请人应在收到本通知书之日起的4个月内陈述意见,如果申请人无正当理由逾期不答复,其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第33条的规定,修改文本应一式两份,其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处,凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约,申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 1 页,并附有下列附件:

☒引用的对比文件的复印件共 1 份 47 页。

审查员: 何山(5513)

审查部门

光电技术审查部

2007年1月29日

21302
2006.7



回函请寄: 100088 北京市海淀区蓟门桥西土城路6号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

第一次审查意见通知书正文

申请号：2003801018407

本申请涉及一种尿布，经审查，现提出如下审查意见。

1、权利要求1请求保护一种尿布，对比文件1(CN1313745A)也公开了一种尿布，其中（见对比文件1中的说明书第九页第九行到第十九行、第十页第四行到第十五行、第十八页第三行到第十六行、附图）披露了以下技术特征：一次性尿布，其具有液体透过性的表面片、液体不透过性的底面片和介于所述两片之间的液体保持性的吸收体，其中，多个吸收体在沿着从背侧部经裆部到腹侧部的方向上被串联地配置，在该多个吸收体排列方向的两侧以拉伸状态配置弹性部件，所述多个吸收体被配置成为，使得在将尿布扩展为平面状时，邻接的吸收体之间产生间隙且在尿布穿戴状态下邻接的吸收体之间紧密接触。由此可见，对比文件1已经公开了该权利要求的全部技术特征，且对比文件1所公开的技术方案与该权利要求所要求保护的技术方案属于同一技术领域，并能产生相同的技术效果，因此该权利要求1所要求保护的技术方案不符合专利法第二十二条第二款有关新颖性的规定。

2、从属权利要求3的附加技术特征已被对比文件1（CN1313745A）（见对比文件1中的说明书第九页第九行到第十九行、第十页第四行到第十五行、第十八页第三行到第十六行、附图）公开了。因此在其引用的权利要求1不具备新颖性时，该权利要求3所要求保护的技术方案也不具备专利法第二十二条第二款有关新颖性的规定。

基于上述理由，本申请按照目前的文本还不能被授予专利权。申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由，并对通知书正文部分中指出的不符合规定之处进行修改，克服所存在的缺陷，同时对说明书作出相应的修改，则本申请可望被授予专利权，否则本申请将被驳回。请申请人注意，对申请文件的修改应当符合专利法第三十三条的规定，不得超出原说明书和权利要求书记载的范围。

审查员：何山

代码：5513

Application No.: 200380101840.7

Text of the First Office Action

The present application relates to a diaper. After examination, the examiner gives the following comments.

1. Claim 1 is directed to a diaper. CN 1313745 A (hereinafter referred to as D1, see page 9, lines 9-19, page 10, lines 4-15, page 18, lines 3-16, and drawings) also discloses a diaper, and the following technical features are disclosed in D1: a disposable diaper comprising a liquid permeable topsheet, a liquid impermeable backsheet, and liquid retentive absorbent members interposed between the topsheet and the backsheet, said absorbent members being disposed in series in the direction of from the rear portion, through the crotch portion, to the front portion of the diaper, an elastic member being disposed in its stretched state on both sides of said series of said absorbent members, and said absorbent members being arranged such that a gap is produced between any adjacent two of said absorbent members when the diaper is stretched flat and that any adjacent two of said absorbent members come into close contact with each other when the diaper is worn. Accordingly, it can be seen that D1 has disclosed all the technical features of present claim 1. In addition, the technical solutions of D1 and present claim 1 belong to the same technical field and achieve the same technical effect. As such, the technical solution of present claim 1 does not comply with Article 22(2) of the Patent Law in respect of novelty.

2. The additional technical feature of dependent claim 3 has been disclosed in D1 (see page 9, lines 9-19, page 10, lines 4-15, page 18, lines 3-16, and drawings). Thus, in case claim 1 to which claim 3 refers is not novel, the technical solution of claim 3 does not comply with Article 22(2) of the Patent Law in respect of novelty.

For the above-mentioned reasons, the present application cannot be granted a patent at present. The applicant is invited to respond to this Office Action within the specified time limit by providing a convincing argument and/or amending the application document to overcome all the defects; otherwise, the

Application No.: 200380101840.7

application will be rejected. Please note that the amendments should not go beyond the scope of the disclosure contained in the initial description and claims under Article 33 of the Patent Law.



COPY

Docket No.: 0445-0350PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Takao KASAI

Application No.: 10/530,705 ✓

Confirmation No.: 7744

Filed: November 8, 2005

Art Unit: 3761

For: DISPOSABLE DIAPER

Examiner: J. F. Stephens

INFORMATION DISCLOSURE STATEMENT
(SUBMISSION AFTER FILING OF AN APPLICATION BUT BEFORE FINAL
REJECTION OR NOTICE OF ALLOWANCE OR CONCURRENTLY WITH A RULE
1.114 RCE APPLICATION)

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §§ 1.97 and 1.98, applicant(s) hereby submit(s) an Information Disclosure Statement for consideration by the Examiner.

I. LIST OF PATENTS, PUBLICATIONS OR OTHER INFORMATION

The patents, publications, or other information submitted for consideration by the Office are listed on the PTO-SB08(s), attached hereto.

II. COPIES

- ☒ a. Copies of cited U.S. patents and patent application publications are not included.
Copies of foreign patent documents and non-patent literature are included.

Application No.: 10/530,705

Docket No.: 0445-0350PUS1

☐ b. Some or all of the documents listed on the PTO-SB08 are not enclosed because they were cited in the International Search Report and copies should already be in the PTO file. If copies are needed, please contact the undersigned.

☐ c. REFERENCES PREVIOUSLY CITED OR SUBMITTED - Pursuant to 37 C.F.R. §1.98(d), consideration of information listed on the PTO-SB08 form(s) is requested since any patents, publications, or other information which are listed on the PTO-SB08 form(s) but for which copies are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Appl. No(s) and U.S. Filing Date

III. CONCISE EXPLANATION OF THE RELEVANCE

(check at least one box)

☐ a. DOCUMENTS IN THE ENGLISH LANGUAGE - The patents, publications, or other information listed on the attached PTO SB08 are in the English language and therefore, do not require a statement of relevancy.

☐ b. DOCUMENTS NOT IN THE ENGLISH LANGUAGE - A concise explanation of the relevance of all patents, publications, or other information listed that is not in the English language is as follows:

☒ c. ENGLISH LANGUAGE SEARCH REPORT - An English language version of the search report or action that indicates the degree of relevance found by the foreign office is attached, thereby satisfying the requirement for a concise explanation. See MPEP 609(III)(A)(3). A foreign Office Action with its translation dated February 16, 2007 is attached.

☐ d. OTHER - The following additional information is provided for the Examiner's consideration.

Application No.: 10/530,705

Docket No.: 0445-0350PUS1

IV. FEES (check one box)

☐ a. This Information Disclosure Statement is being filed concurrently with the filing of a new patent application; therefore, no fee is required.

☐ b. This Information Disclosure Statement is being filed concurrent with the filing of a continuation-in-part, continuation, or divisional patent application; therefore, no fee is required.

☐ c. This Information Disclosure Statement is being filed within three months of the filing date of a national application (37 C.F.R. § 1.97(b)(1)). No fee or statement is required.
(This section is not to be used with RCE's.)

☐ d. This Information Disclosure Statement is being filed within three months of the date of entry of the national stage as set forth in § 1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or statement is required.

☐ e. This Information Disclosure Statement is being filed concurrently with the filing of a Request for Continued Examination under § 1.114 (37 C.F.R. § 1.97(b)(4)). No fee or statement is required.

☐ f. This Information Disclosure Statement is being filed before the mailing date of a first Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or statement is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the statement under 37 C.F.R. § 1.97(e) below, or, if no statement has been made, charge our deposit account for the fee as required by 37 C.F.R. § 1.17(p).

☒ g. This Information Disclosure Statement is being filed before the mailing date of a Final Office Action under 37 C.F.R. § 1.113 (See 37 C.F.R. § 1.97(c)(1)) or before the mailing date of a Notice of Allowance under 37 C.F.R. § 1.311 (See 37 C.F.R. § 1.97(c)(2)).

☐ No statement; therefore, a fee as required by 37 C.F.R. § 1.17(p) is attached.
or

☒ See the statement below. No fee is required.

V. STATEMENT UNDER 37 C.F.R. § 1.97(e)

(check only one box)

The undersigned hereby states that:

☐ a. Each item of information contained in the IDS was first cited in any communication from a foreign Patent Office in a counterpart foreign application not more than 30 days prior to the filing of this IDS; or

☒ b. Each item of information contained in the IDS was first cited in any communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS; or

☐ c. No item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of the IDS.

☐ d. Some of the items of information were cited in a communication from a foreign Patent Office. As to this information, the undersigned states that each item of information contained in the IDS was first cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby states that no item of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application and, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

Application No.: 10/530,705

Docket No.: 0445-0350PUS1

VI. PAYMENT OF FEES (check one box)

- ☐ The required fee is listed on the attached Fee Transmittal.
- ☒ No fee is required.

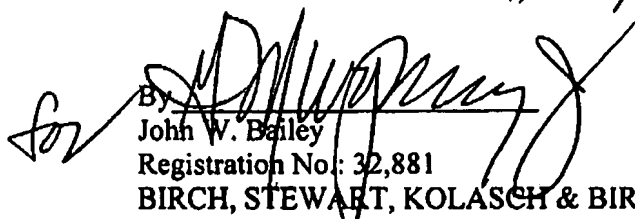
If the Examiner has any questions concerning this IDS, he/she is requested to contact the undersigned. If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule and charge the appropriate fee to Deposit Account No. 02-2448.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: April 19, 2007

Respectfully submitted,

A28977

for 
By John W. Bailey
Registration No.: 32,881
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachment(s):

- ☒ PTO-SB08
☒ Documents
☒ Foreign Office Action and Translation
☐ Fee
☐ Other:



PTO/SB/08A/B (09-08)

Approved for use through 03/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	10/530,705-Conf. #7744
				Filing Date	November 8, 2005
				First Named Inventor	Takao KASAI
				Art Unit	3761
				Examiner Name	J. F. Stephens
Sheet	1	of	1	Attorney Docket Number	0445-0350PUS1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁴
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
	BA	CN-1313745-A	09-18-2001			

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinda Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

Birch, Stewart, Kolasch & Birch, LLP

MTC JWB/MTC/bsh

Document code: WFEE

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